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SPECIAL INSTRUCTIONS OR SUPPLEMENTAL MESSAGE:

Application No. 09/662,284

44PO

Attached is the Decision on Appeal for Application No. 09/397,126. Please acknowledge receipt of this Decision in the file history for 09/662,284. Also attached is proposed claim language. Please call to finalize 09/662,284.

Thank you.

Andy Ryan
Reg. No. 39,351

ABR 99017

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
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Ex parte KEN HAYWARD, MARC J. KROLCZYK and DAWN M. MARCHIONDA

PATENT DEPARTMENT

Appeal No. 2004-0212
Application No. 09/397,126

ON BRIEF

Before FLEMING, LEVY and SAADAT, Administrative Patent Judges.
SAADAT, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the Examiner's final rejection of claims 1, 3, 6-8, 10, 12-15, 17 and 19-21, which are all of the claims pending in this application.

We affirm.

BACKGROUND

Appellants' invention relates to automated reordering of consumable supplies and repair parts for a computer peripheral. According to Appellants, upon sensing the peripheral condition and indicia, a communication browser is launched to access a predefined

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server which provides the browser with a purchase order screen (specification, page 3).

Representative independent claim 1 is reproduced as follows:

1. A method of ordering a part for a peripheral comprising:
sensing a peripheral condition and a peripheral indicia of a peripheral at a computer;

launching a communications browser to access a server at an address defined by the peripheral condition and the peripheral indicia, the server providing the browser with a purchase order screen;

prior to sending purchase order data, displaying the purchase order screen including a part number to a peripheral automatically filled out on the purchase order screen based on the peripheral condition and the peripheral indicia; and

sending purchase order data to the server after personal information data is automatically entered by an application program into the purchase order screen.

The prior art references of record relied upon by the Examiner in rejecting the appealed claims are:

U.S. patent

Kageyama 6,333,790 Dec. 25, 2001

European Published Application

Venkatraman EP 0 838 768 A2 Apr. 29, 1998

Claims 1, 3, 6-8, 10, 12-15, 17 and 19-21 stand rejected under 35 U.S.C. § 103 as being unpatentable over Kageyama and Venkatraman.

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We make reference to the answer (Paper No. 14, mailed July 15, 2003) for the Examiner's complete reasoning in support of the rejection, and to the brief (Paper No. 13, filed May 12, 2003) for Appellants' arguments thereagainst.

OPINION

The Examiner relies on Kageyama for teaching a method for sensing a peripheral condition and a peripheral indicia of a peripheral and ordering a part except for "communication through a browser to access a server at an address defined by the peripheral and the peripheral indicia" (answer, page 4). The Examiner refers to the abstract and column 2, lines 9-38 of Kageyama where launching a communication browser is disclosed for accessing a server at an address defined by the peripheral condition and indicia (id.). Additionally, the Examiner points to Figure 1 and column 11, lines 39-60 for a teaching of placing an order using the user interface of the first computer 300 when the first computer 300 is informed of the shortage of the consumable articles (answer, page 9). Thus, the Examiner is reading Kageyama's placing the order using the user interface on the first computer and sending it to the second computer, which sends back the acceptance information, as the claimed displaying the purchase order screen prior to sending the final purchase order data.

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The Examiner, however, acknowledges the absence of communicating through a browser to access a server at an address defined by the peripheral and the peripheral indicia and reasons that the missing limitation is disclosed by Venkatraman as the Web access mechanism (answer, page 4). The Examiner further asserts that it would have been obvious to provide a device Web page for the peripheral to insure that the peripheral part and ordering information is readily accessible (id.).

As a general proposition, in rejecting claims under 35 U.S.C. § 103, the examiner bears the initial burden of presenting a prima facie case of obviousness. See In re Rijckaert, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993) and In re Fine, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). Here, we find the Examiner's reliance on the teachings of Kageyama and Venkatraman to be reasonable and sufficient to support a prima facie case of obviousness which shifts the burden to Appellants. However, in response to the prima facie case obviousness presented by the Examiner, Appellants have failed to offer any arguments to convince us of any error in the Examiner's position. Additionally, arguments not made are waived. See 37 CFR § 41.37(c)(1)(vii).

Appellants argue that Kageyama merely teaches that the user places the order to the first computer 300 which, in turn, places

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an order to printer controller 2100 which is forwarded to computer 300 upon the completion of acceptance of the order (brief, page 11). Appellants further point out that the first computer 300 displays the information on the completion of acceptance of the order and the accompanying information on a screen and sends notification to the user concerning the received information (id.). Additionally, Appellants argue that the Supplies Ordering button of Venkatraman simply provides a hyperlink to Web pages for ordering printer supplies (brief, page 13).

The Examiner refers to Figure 3 of Venkatraman which shows the hyperlink "Supplies Ordering" provided by the server as a link to Web pages for ordering printer supplies from the manufacturer (page 6, lines 8 & 9). This link, similar to the purchase order screen of Kageyama, corresponds to a data structure which organizes the related fields that contain different pieces of information pertaining to the peripheral indicia such as the part number, device ID, etc. As stated above, the Examiner properly characterizes Kageyama's placing the order using the user interface (col. 11, lines 42-45) as presenting the information to the user prior to sending the final purchase order. Furthermore, both the user (on the first computer 300) and the server (on the second computer 400) must recognize the data structure of the order

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screen, which is set by the manufacturer and made available to the user, in order to be able to communicate with each other.

Although the reference is silent as to which side sets the organization of the screen, one of ordinary skill in the art would have looked into other ways of accessing and displaying the order screen such as those taught in Venkatraman for combining with the ordering process of Kageyama. The browser in Venkatraman accesses the server and by clicking the "supplies ordering" button, the purchase order or its relational data structure is sent to the user for providing the personal information. We also note that the features of claim 1 do not expressly identify where the purchase order record is originated (i.e., server vs. user computer). Thus, the Examiner has pointed to sufficient teaching and suggestion in both references to show that one of ordinary skill in the art would have been led to look into other Web-based supply ordering systems for possible solutions to the problem of placing the data in a particular arrangement for the order screens.

Therefore, Appellants have not identified any clear flaw in the reasoning of the examiner, nor have they pointed to any evidence of record indicating that the findings of the Examiner are unsupportable. In view of the analysis above, we find the Examiner's reliance on the combination of Kageyama and Venkatraman

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to be reasonable and sufficient to support a prima facie case of obviousness with respect to claim 1.

With respect to claim 7, Appellants concede that Venkatraman (col. 3, lines 20-36) teaches HTTP commands used to read status information from the device (brief, page 15). With respect to the remaining claims, Appellants merely repeat the claim limitations and assert that, similar to claim 1, the recited features are not taught by the combination of the references (brief, pages 16-22). When Appellants fail to challenge with any reasonable specificity the rejection of the other claims, all the claims stand or fall together. See In re Nielson, 816 F.2d 1567, 1572, 2 USPQ2d 1525, 1528 (Fed. Cir. 1987). Accordingly, the 35 U.S.C. § 103 rejection of 1, 3, 6-8, 10, 12-15, 17 and 19-21 over Kageyama and Venkatraman is sustained.

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CONCLUSION

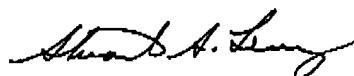
In view of the foregoing, the decision of the Examiner rejecting claims 1, 3, 6-8, 10, 12-15, 17 and 19-21 under 35 U.S.C. § 103 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED



MICHAEL R. FLEMING
Administrative Patent Judge



STUART S. LEVY
Administrative Patent Judge

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BOARD OF PATENT
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AND
INTERFERENCES



MAHSHID D. SAADAT
Administrative Patent Judge

MSD/ki

DRAFT CLAIM PROPOSAL**Art Unit 3625, Examiner Mark Fadok****Application 09/662,284****Delete claims 13, 20; claims include 1-12, 14-19, 21**

1. A method of ordering a part of an apparatus comprising:
monitoring electronically a condition of a replaceable part in a first device, the replaceable part having: a first condition upon installation; at least one intermediate condition after use; and a third condition when a replacement part is substantially necessary;
launching an electronic communication link to a URL address of a computer, the URL address defined by a condition of the replaceable part;
electronically sending a signal to the URL address of the computer associated with a condition of the replaceable part and electronically offering to purchase a part upon identification of at least one of the first condition, second condition, and third condition of the replaceable part; and
sending a digital electronic signature associated with the offering to purchase the part.
9. The method of claim 1 wherein the first device is interactive.

14. A method of ordering a part of an apparatus comprising:
 - identifying electronically a condition in an apparatus;
 - automatically launching an electronic communication to a URL address of a computer associated with a condition of the part, the URL address defined by a condition of the replaceable part;
 - displaying a purchase order screen including a part number automatically filled out on the purchase order screen based on the identified condition;
 - sending an electronic purchase order for a part using the URL address of a computer associated with the condition of the part; and
 - sending a digital electronic signature associated with the electronic purchase order.

15. A method of ordering a part for a marking device comprising:
 - sensing a condition of a part in a marking device, the marking device adapted to predict a code indicative of a threshold of a consumable in the part;
 - launching an electronic communication to a URL address of a computer associated with a condition of the part, the URL address defined by a condition of the replaceable part;
 - sending an electronic purchase offer for a replacement of the consumable part using at least one of the URL address of the computer associated with a condition of the part and a derivative of the URL address associated with the condition of the part; and
 - sending a digital electronic signature associated with the electronic purchase offer.

17. A method of ordering a part of an imaging apparatus comprising:

identifying electronically a condition in a consumable part, the consumable part having a first condition upon installation, at least one intermediate condition after use, and a third condition when a replacement of the consumable part is substantially necessary;

using a software and sensor system associated with the apparatus to at least one of: (a) electronically monitor the condition of the consumable part; (b) electronically predict the condition of the consumable part; and after at least one of (a) and (b); (c) automatically launch a communication link to a URL address of a computer associated with a condition of the consumable part upon at least one of an occurrence and a prediction of at least one of the first condition, intermediate condition, and third condition, the URL address defined by a condition of the part;

sending at least one of an inquiry and an offer to purchase a replacement of the consumable part using at least one of the URL address of the computer associated with a condition of the part and a derivative of the URL address associated with the condition of the part; and

sending a digital electronic signature associated with at least one of the inquiry and the offer to purchase.